IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9913 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MADRESSA MOINUI ISLAM KELVANI MANDAL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9913 of 1995

MR SAURIN MEHTA for MR DEVANG NANAVATI for Petitioner No. 1

..... for Petitioner No. 2

MS HARSHA DEVANI A.G.P.for Respondent No. 1

..... for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 07/03/2003

ORAL JUDGEMENT

1. Learned A.G.P. Ms.Harsha Devani is permitted to

place the Government Resolutions dated 29th June, 1977, 14th October, 1977 and 9th May, 1980 on the records of this matter.

2. The petitioner before this Court is an Educational Trust (hereinafter referred to as "the Trust"). The Trust runs and manages a primary school at Himmatnagar in the name of Madresa Moinui Islam Kelavni Mandal. It is admitted that the Trust is a minority institution. Prior to the month of July, 1995, the Trust was receiving salary grant from the State Government to the extent of 95% of its expenditure on salaries. However, on 13th July, 1995 the District Education Officer, Himmatnagar informed the Trust that the population of the Himmatnagar town, according to 1991 census, was more than Fifty thousand. The Trust would, therefore, be receiving salary grant to the extent of 85% of the expenditure incurred on the salaries. Feeling aggrieved the Trust has preferred the present petition.

3. Mr.Mehta has submitted that the Trust is a grant-in-aid institution. Untill the month of June, 1995, the Trust had been receiving the salary grant to the extent of 95% of the expenditure incurred on the salaries of the Staff. Under the impugned communication the same has been reduced to 85% of such expenditure. He has submitted that it is the policy of the State Government and the Union Government to extend maximum aid to the minority institutions. Accordingly, the Trust also should continue to receive salary to the extent of 95% of the expenditure incurred on the salaries. Mr.Mehta has relied upon the guidelines issued by the Union Government in its Ministry of Human Resource Development on 19th December, 1988. Clause 2 (i) of the said guidelines reads as under :-

> "(2) It was proposed that within the constitutional rights of the minorities to administer their own institutes :
>
> (i) Grant-in-aid be provide to all minority education institutions that ask for it, either fully, like in the State of Maharashtra or sufficient to cover the deficit incurred for the education of the weaker sections."

4. Ms.Devani has relied upon the above referred

Government Resolutions. She has submitted that according to the prevailing policy of the State Government the area where the population is more than fifty thousand it is deemed to be an urban area, for the purpose of the grant. The admissible grant in the urban area is 85% of the total salary expenditure while in the rural area it is 95% of the total salary expenditure. The population of the Himmatnagar being more than fifty thousand the Trust is entitled to the salary grant to the extent of 85% of its expenditure on salaries. The demand made by the Trust being contrary to the Government policy, the same cannot be accepted.

5. It is not disputed that the population of Himmatnagar is more than fifty thousand as declared in 1991 census. It is also not disputed that under the existing Government policy Himmatnagar can be said to be an urban area for the purpose of grant-in-aid to the educational institutions. It is also not disputed that under the existing Government Policy for the urban areas the permissible salary grant is 85% of the total expenditure on salaries. However, the claim is based solely on the above referred guidelines issued by the Government of India. The said guidelines emphasise for providing grant-in-aid to all minority educational institutions. However, the same cannot be interpreted to mean that such institutions can claim grant more than what is admissible under the grant-in-aid rules of the State Government. In the present case, the Trust has been given grant-in-aid in consonance of the existing Government policy. The demand made by the Trust is, therefore, contrary to the prevailing grant-in-aid rules of the State Government. The same therefore, cannot be accepted.

6. The petition is, therefore, dismissed. Rules is discharged. There shall be no order as to costs.

[Ms.R.M. Doshit, J.]

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